

**REMARKS**

Upon entry of the above amendment, claims 1, 3, 5, 12, 20, 21, 23, 29, 34-37 and 54 will be pending in the present invention. Applicants amended claims 1 and 23 to clarify the invention. Applicants canceled Claims 2, 6-10, 24-27, 31, 32, 38 and 39 without prejudice to the subject matter contained therein.

As initial matter, Applicants appreciate the courtesy extended by Examiner Douglas Willis during a telephone interview held on July 2<sup>nd</sup> 2009. During the interview, the information disclosure objection and the obviousness-type double patenting rejection were discussed.

**Information Disclosure statement Objection:**

The Examiner objected to the information disclosure because the foreign references were not provided. Applicants respectfully disagree with this objection. The foreign references cited in the information disclosure statement were all listed in the international search report and their submission was therefore not required.

Examiner has indicated during the phone interview his willingness to withdraw the objection based on the above remark.

Applicants respectfully request withdrawal of the information disclosure statement objection.

**Abstract Objection**

Applicants amended the Abstract to reflect the scope of the restriction requirement. Applicants respectfully request withdrawal of the abstract objection.

**35 U.S.C. §112, first paragraph**

Claims 1-3, 5, 12, 20, 21, 23-27, 29, 31, 32, 34-36 and 54 stand rejected under 35 U.S.C. §112, first paragraph as allegedly having a non-enabling specification. The Examiner maintains the argument that the specification fails to enable a person skilled in the art to make the invention commensurate in scope with the claims. The Examiner asserts that the specification fails to enable a skilled artisan with a process to make compounds of formula I in which R<sup>1</sup> is different from halogen or lower alkyl; R<sup>2</sup> is different from H or alkyl; R<sup>3</sup> is different from H, alkyl, substituted alkyl or cycloalkyl; R<sup>6</sup> is different from H, alkyl, NH<sub>2</sub>, NMe<sub>2</sub> or NHC(O)R<sup>4</sup>; and V is different from M-R<sup>10</sup>.

Applicants respectfully disagree with the Examiner's assertion. However, to expedite prosecution, Applicants amended the definition of  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^6$  and V without prejudice to the excluded subject matter.

Applicants respectfully request withdrawal of the 35 U.S.C. §112, first paragraph rejection.

Obviousness-type Double Patenting

Claims 1-3, 5, 12, 20, 21, 23-27, 29, 31, 32, 34-36 and 54 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-5, 12-15, 19-37 and 54-57 of copending Application No. 10/898581. Examiner indicated that although the conflicting claims are not identical, they are not patentably distinct from each other due to some overlapping subject matter.

Applicants respectfully disagree that the claims have some overlapping subject matter. The claims of the co-pending application No 10/898,581 were subject to two restriction requirements. In response to the first restriction requirement, Applicants elected without traverse Group (1), drawn to compounds of formula I which becomes formula II, III, IV or V, and pharmaceutical composition thereof. In the response to the second restriction requirement, Applicants elected without traverse Group (1d), drawn to compounds of formula I which becomes formula II, III, IV or V wherein X is pyridinyl.

In the instant application, X is pyrimidine. Therefore, no overlapping subject matter exists.

Examiner has indicated during the phone interview his willingness to withdraw the rejection based on the above remark.

Applicants respectfully request withdrawal of the double patenting rejection.

New Claims rejections 35 U.S.C. §112, First paragraph

Claims 1-3, 5, 12, 20, 21, 23-27, 29, 31, 32, 34-36 and 54 stand rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the enablement requirement where  $R^3$  is a saturated 4-7 membered monocyclic heterocyclyl or a substituted saturated 4-7 membered monocyclic heterocyclyl.

Applicants respectfully disagree that the instant claims are not enabled. However, to expedite prosecution, Applicants amended the definition of  $R^3$ .

Applicants respectfully request withdrawal of the 35 U.S.C. §112, first paragraph rejection.

New Claims rejections 35 U.S.C. §112, Second paragraph

Claims 1-3, 5, 12, 20, 21, 23-27, 29, 31, 32, 34-36 and 54 stand rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention.

Applicant addressed the alleged indefinitiveness of the claims with the following actions:

1. Applicants amended the definition of R<sup>6</sup>.
2. Applicants cancelled claims 2, 27 and 32.
3. Applicants amended definition of R<sup>10</sup> to read 4-methoxybenzyl.

Applicants respectfully request withdrawal of the 35 U.S.C. §112, second paragraph rejection.

Conclusion

Applicants addressed each and every issue set forth by the Examiner. Applicants respectfully submit that the claims are in good condition for allowance.

If Examiner believes for any reason that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (617)871-4125.

Respectfully submitted,

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